

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Mack Neil Myers, #241427,)	
)	
Petitioner,)	C.A. No. 9:06-1120-HMH-GCK
)	
vs.)	OPINION & ORDER
)	
State of South Carolina Department)	
of Corrections; Henry Dargan McMaster,)	
Attorney General of the State of South)	
Carolina,)	
)	
Respondents.)	

This matter is before the court with the Report and Recommendation of United States Magistrate Judge George C. Kosko, made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 DSC.¹ Mack Neil Myers (“Myers”) is a pro se prisoner attacking his 1996 conviction for armed robbery and assault and battery with intent to kill (“1996 conviction”) pursuant to 28 U.S.C. § 2254. In his Report and Recommendation, Magistrate Judge Kosko recommends dismissing Myers’ habeas petition without prejudice as a successive § 2254 petition pursuant to Rule 9 of the Rules Governing Section 2254, without requiring the Respondents to file a return because Myers has had a prior § 2254 petition challenging his 1996 conviction. (Report and Recommendation 3, 5.)

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

Myers filed objections to the Report and Recommendation. Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that all of Myers' objections are non-specific, unrelated to the dispositive portions of the Magistrate Judge's Report and Recommendation, or merely restate his claims. Therefore, after a thorough review of the Magistrate Judge's Report and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation.

It is therefore

ORDERED that Myers' petition is dismissed without prejudice and without requiring the Respondents to file a return.

IT IS SO ORDERED.

s/ Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
May 9, 2006

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.